

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

FAO No.2276 of 2015

Date of Decision: 29.03.2019

Zeera Bai

...Appellant

Versus

Praveen Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Gulshan Nandwani, Advocate for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for respondent No.3.

B.S.WALIA, J (Oral).

1. Appeal has been filed by the parents of 12-13 years old Silochana, who died in a motor vehicular accident on 21.12.2012. Prayer is for enhancement of compensation of ₹3,25,000/- awarded by the learned Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal').

2. Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified and compensation payable enhanced in the light of decision of Hon'ble the Supreme Court in Kishan Gopal and another vs Lala and others 2014 (1) SCC 244, by awarding compensation of ₹4,85,000/-, as the deceased was helping her parents who were working as labourers.

3. Learned counsel for respondent No.3 on the other hand contended that appropriate compensation had been awarded by the learned Tribunal, consequently the award did not warrant any interference.

4. I have considered the submissions of learned counsel for the parties.

5. The learned Tribunal by taking into account notional income of the deceased at ₹15,000/- per annum, by applying multiplier of '15' besides by awarding lump sum ₹70,000/- on account of future prospects and ₹25,000/- on account of funeral expenses, awarded total compensation of ₹3,25,000/-. It is not in dispute that parents of the deceased were labourers. It is also not in dispute that when the appellants and the deceased were proceeding for work, the driver of the offending vehicle hit the deceased as a result of which the deceased sustained fatal injuries which led to her death on the spot. Although the learned tribunal held that no evidence had been led to show that the deceased was working as labourer yet the averment in the claim petition of the appellants and the deceased going from village Fadni to village Budana for doing labour work was reiterated in the evidence of PW4 i.e. deceased's father, Lallu. In the light of aforementioned position as also it being common knowledge that children of labourers, especially of the age group of 10 years and above assist their labourer parents, it can safely be presumed that the deceased was assisting her parents as labourer. Therefore, in the given set of circumstances, it would be just and reasonable to take the notional income of the deceased at ₹30,000/- per annum as was done in the case of Kishan Gopal's case (supra). However, no future prospects are payable on the said

amount. Amount of ₹25,000/- awarded on account of funeral expenses is liable to be scaled down to ₹15,000/- while sum of ₹15,000/- is payable on account of loss of estate in view of the decision of Hon'ble the Supreme Court in '**National Insurance Company Limited** versus **Pranay Sethi and others**', 2017(4) RCR (Civil) 1009. Accordingly, while reducing the compensation awarded on account of funeral expenses to ₹15,000/- the appellants are held entitled to ₹15,000/- on account of loss of estate.

6. In the circumstances, the appellants are held entitled to ₹4,80,000/- i.e. [₹300000x15=₹4,50,000/- + ₹15,000/- (funeral expenses) + ₹15,000/- (loss of estate)] along with interest @ 9% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid..

7. Accordingly, appeal is allowed. Award dated 02.08.2014, passed by the learned Tribunal, Rewari, is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

29.03.2019

rajesh.k.khurana

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No